

REMARKS

Status of Claims

Claims 8-14 and 22 are pending in the application prior to the instant amendments. Claim 8 is currently amended, no claim is added or canceled, leaving claims 8-14 and 22 pending upon entry of the instant amendment.

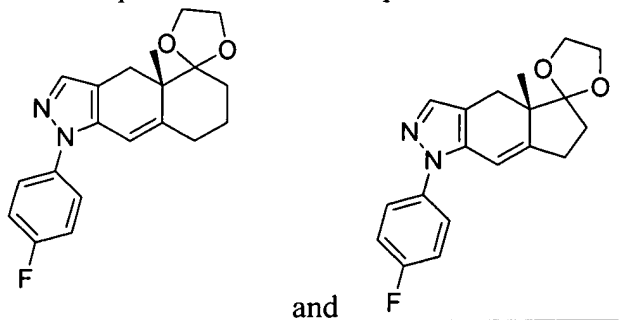
Indication of allowability - Applicants acknowledge the examiner's indication of allowability of claims 11-13.

Amendment to claim 8 - Claim 8 is amended, as indicated in the listing of claims herein, to read as the following:

Claim 8. A pharmaceutical composition comprising a compound of Formula I

...

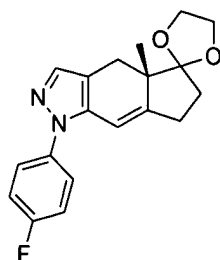
with the proviso that the compound of Formula I is other than



Support for this amendment is found at least at the bottom of page 87 of the application (Example 142). No new matter has been added. Accordingly, entry thereof is respectfully requested.

Phone Interview

On September 16, 2008, a phone interview was conducted between Examiner Sun Jae Y. Loewe and Applicants' attorney Yong Zhao. The patentability of claim 8 was discussed during the interview. The Examiner maintained the 35 U.S.C. §102(e) rejection citing the reason that reference WO 04/075840 (Ali et al.) discloses compound having the following structure:



Applicants disagreed with the Examiner regarding the teaching of the cited art as characterized by the Examiner, but agreed to respond to the rejections in the next amendment.

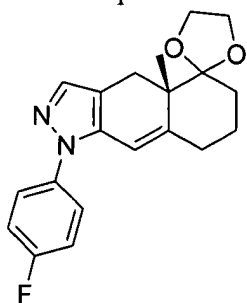
Rejections under 35 U.S.C. §102 (e)

At page 2 of the Office Action dated May 1, 2008, the Examiner rejects claims 8-10, 14 and 22 under 35 U.S.C. §102(e). Applicants respectfully traverse in view of the current amendment.

Claims 8-10 - Applicants respectfully argue that the cited structure above in the Phone Interview section is not disclosed by any of cited references WO 04/075840, WO04/026248 and WO03/086294. Nevertheless, to advance the prosecution of the instant application, Applicants have amended claim 8 to recite the following:

...

with the proviso that the compound of Formula I is other than



and .

Applicants point out that none of the cited references disclose all limitations of claim 8 as amended. Therefore, claim 8 and its dependent claims 9-10 are novel over the cited references. Applicants respectfully request withdraw of the §102(e) rejection and allowance of claims 8-10 in view of the current amendment.

Serial No.: 10/551,933
Case No.: 21150P
Page 55

Claim 14 – Applicants point out that claim 14 is novel over the cited references as none of the references disclose all limitations of this claim. Applicants respectfully request withdraw of the §102(e) rejection and allowance of claim 14.

Claim 22 – Claim 22 depends from allowable claim 11 and further requires that the pharmaceutical composition comprise a pharmaceutically acceptable carrier. Since claim 11 is novel and has been allowed, its dependent claim 22 also is novel over the cited references. Accordingly, Applicants respectfully request withdraw of the §102(e) rejection and allowance of claim 22.

In view of the foregoing amendment and remarks, Applicants submit that the application is now in condition for allowance and passage thereto is earnestly requested. Any additional fees required in connection with this Amendment may be taken from Merck Deposit Account No. 13-2755. The Examiner is invited to contact the undersigned attorney at the telephone number provided below if such would advance the prosecution of the case.

Respectfully submitted,

By 

Yong Zhao
Reg. No. 57,014
Attorney for Applicants

MERCK & CO., Inc.
P.O. Box 2000
Rahway, New Jersey 07065-0900
(732) 594-7338

Date: September 19, 2008